(3)

IN THE HIGH COURT OF JUDICATURE AT BILASPUR(CHHATTISGARH)

WRIT PETITION NO. 2167 OF 2003.

PETITIONER : Ramharakh,son of Deepchand Gond, aged about 32 years, by caste: Gond Tribal,resident of SECL Colony, Old Mines, Bhatgaon,Police Station-Pratappur,District-Sarguja,(C.G.)

V E R S U S

RESPONDENTS : 1. The Sub Divisional Officer, (Revenue) (Competent Authority, under section 122 (1) of Madhya Pradesh Panchayat Raj Adhiniyam) Surajpur,District-Sarguja,(C.G.)

P. R. No. 2016/03
Presented by Shri S. Pandey
dated 21/8/03

: 2. Ramesh, son of Sai aged about 29 years, by Caste Chevra,occupation-cultivation,resident of Village Bhatgaon Basti,Thana Pratappur,Tehsil-Surajpur, District-Sarguja,(C.G.)

: 3. Amar Sai,son of Sahdev aged about 23 years, by Caste Kanwar,resident of Village-Bhatgaon,Basti,Thana Pratappur,District Sarguja,(C.G.)

शपथ आयुक्त
एम. के. शुक्ला
बिलासपुर (छ.ग.)
20/8/03
बिलासपुर तहसील हो

: 4. Smt. Phulkeriya,wife of Michel Kerketta, aged about 47 years,by Caste Oraon,resident of Village New Mines,Bhatgaon,Thana Pratappur, District Sarguja,(C.G.)

: 5. Smt. Manoji Oran,wife of Maan Sai,aged about 37 years,by Caste Oraon,resident of Emlipara Bhatgaon,Thana Pratappur,District-Sarguja,(C.G.)

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: 6. Jaganarayan,son of Rajju,aged about 24 years, by Caste Kanwar,resident of Village Bhatgaon,Basti,Thana, Pratappur,District-Sarguja,(C.G.)

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: 7. Suresh,son of Ramkewal,aged about 24 years,by Caste Oraon,resident of Village Old Mines,Bhatgaon,Coillery thana-Bhatgaon,Pratappur,District-Sarguja,(C.G.)

: 8. Sanjay,son of Shikhnarayan,aged about 25 years,resident of Village Bhatgaon Old Mines, Doublestore,thana Pratappur, District-Sarguja,(C.G.)

: 9. Smt. Mamkultha,wife of Hellarus,aged about 37 years, by Caste-Oraon,resident of Bhatapara,thana Pratappur,district Sarguja,(C.G.)

: 10. Returning Officer,Block Bhaiyathan (Shri B.C.Ekka),Additional Tehsildar Bhatgaon,Tehsil Surajpur, District Sarguja,(C.G.)

WRIT PETITION UNDER ARTICLES 226/227 OF THE CONSTITUTION OF INDIA.

XI-HC-22

(29)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक WP 2167/03 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

8-8-2003

Shri B.D. Guru, counsel for the petitioner.

By this petition filed under Article 226 / 227 of the Constitution of India, the petitioner has challenged the order dated 8-7-2003, Annexure-P/1, passed by the Sub Divisional Officer, Surajpur.

The main grievance of the petitioner is that this Hon'ble Court in writ petition No. 32/2001, vide order dated 16-4-2003 allowed the petitioner by directing the respondents to allow the petitioner to adduce the evidence of Station House Officer P.S. Devariya (U.P.) within the stipulated time of two months from 7th May 2003.

As per the direction of the Court, a notice regarding presence of S.H.O., Devariya was issued by the Presiding Officer on 12th May 2003 and the petitioner himself served the notice upon the S.H.O. Devariya, but he refused to accept the notice and said that without prior permission of the Superintendent of Police of the concerned district he cannot appear as a witness. It was difficult for the petitioner to get the permission of the Superintendent of Police within a period of 2 months and ultimately the prayer of the petitioner has been rejected by the Sub Divisional Officer.

I have heard the learned counsel for the petitioner.

The learned counsel for the petitioner submits that it was not possible for the petitioner to get the permission of the Superintendent of Police, the S.D.O. could have sent a letter to the Superintendent of Police for permission to S.H.O. Devariya to give evidence.

XI-HC-22

(25)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

I have perused the impugned order as also the order dated 16-4-2003 passed by this Court.

A perusal of the operative part of the order dated 16-4-2003 which reads thus:

> *"It will be the responsibility of the petitioner to get him examined within a period of two months from 7th May, 2003 for which purpose summons may be handed over to the petitioner for effecting service. In case the petitioner fails to produce the Station House Officer within a period of two months from 7-5-2003 his right to examine him shall stand closed".*

In pursuance of the order of this Court, the S.D.O. handed over the summons to the petitioner for serving on the Station House Officer, Devariya and even thereafter again on the request of the petitioner the notices were sent through the registered post on 20th May 2003.

In the circumstances, I am of the opinion that the sufficient opportunity and time was given to the petitioner to produce the Station House Officer in evidence, but the petitioner has failed to utilize this time. I do not find any illegality or infirmity in the impugned order, therefore, there is no merit in this petition, the same is liable to be dismissed and it is dismissed.

Sd/-
L.C. Bhadoo
Judge

Barve

16.8.03

16/8/03